

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE : CHAPTER 13
ANDOIN RODQUEZS ROUSE, : CASE NO. 16-56653-MGD
Debtor. :
EXETER FINANCE CORP., :
Movant, :
v. : CONTESTED MATTER
ANDOIN RODQUEZS ROUSE, :
Debtor; :
and MARY IDA TOWNSON, Trustee, :
Respondents. :

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

COMES NOW Exeter Finance Corp. (the "Movant"), a creditor of the referenced Debtor, and hereby moves this Court to deny confirmation of Debtor's Chapter 13 Plan. In support of its objection, the Movant shows the Court as follows:

1.

On April 15, 2016, Andoin Rodquezs Rouse ("Debtor") filed a *second* Voluntary Petition pursuant to 11 U.S.C. Section 1301 et seq., and said case is presently pending before this Court. Debtor filed a prior Chapter 13 case, Case 11-79736-CRM, filed October 13, 2011 and dismissed January 12, 2012 for failure to make plan payments.

2.

Movant has a net claim in this case in the approximate amount of \$32,972.93 secured by a 2015 Dodge Charger (the "Collateral").

3.

Debtor's Chapter 13 Plan proposes to pay Movant's secured claim of \$32,972.93 at

\$29,596.00 at 4.25% interest, with \$250.00 monthly pre-confirmation adequate protection payments and \$200.00 monthly post-confirmation payments until July 2017, when payments will increase to \$664.00.

4.

Movant objects to the treatment of its claim in the proposed plan. Movant's claim amount of \$36,278.06 should be paid in full, as the Collateral was purchased on July 16, 2015, which is within 910 days of filing.

5.

Debtor is not providing Movant with an adequate enough risk factor. The prime rate of interest was 3.50% the month this case was filed. Debtor's prior Chapter 13 case was dismissed after less than three (3) months for nonpayment, Debtor having failed to make a single payment to the Trustee. Given Debtor's history of nonpayment in a prior bankruptcy case, *Till* suggests the appropriate risk factor in this case to be prime + 3%, plus an additional point for the additional risk stemming from this history, or 7.50%.

6.

The Collateral is depreciating through use and over time, and the Debtor is not adequately protecting Movant's interest in the Collateral. Debtor is not proposing an appropriate amount in pre-confirmation adequate protection payments in violation of 11 U.S.C. Section 1326(a)(1)(C).

The NADA value of the Collateral depreciated at an average rate of \$679.17 per month in the six (6) months prior to the filing date based upon a drop in value between the October 2015 base NADA value of \$26,150.00 (the first available NADA value) and the April 2016 base NADA value of \$22,075.00. Debtor must protect Movant's interest in the Collateral by increasing monthly payments to \$679.17 to match the high depreciation.

Any increase in pre-confirmation adequate protection payments prior to Confirmation needs to be made to have the effect of being retroactive to the filing date to pay Movant the correct amount of adequate protection (i.e. a lump sum amount that will be enough to make up for the difference in adequate protection previously disbursed by the Trustee and what Movant is entitled to).

7.

The specific terms of the proposed plan itself are not proposed in good faith in violation

of 11 U.S.C. §1325(a)(3).

8.

Movant has no proof of full coverage insurance on the Collateral and is therefore not adequately protected.

WHEREFORE, the Movant prays that its Objection to Confirmation of Chapter 13 Plan be inquired into and sustained and that it has such other and further relief as this Court deems just and proper.

This May 10, 2016.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

By: /s/Philip L. Rubin
Philip L. Rubin
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64	Rough Trade-in	Average Trade-in	Clean Trade-in	Body Type	Model Number	MSRP	Weight	Clean Loan	Clean Retail
	Ded W/out Automatic Trans.	500	500						

D	O	DODGE							
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D	O	2016 DART-4 Cyl.								Mileage Class: I
D	E	Sedan 4D SE	DFA	16695	3122					
		Sedan 4D Aero	DFD	20495	3081					
		Sedan 4D SXT	DFB	19000	3165					
		Sedan 4D Rallye	DFB	19595	3165					
		Sedan 4D Limited	DFC	23795	3215					
		Sedan 4D GT	DFE	21995	3165					

Add Alpine Stereo System	Trade-in	Loan	Retail	Add 2.0L Engine (Ex. SE)	Trade-in	Loan	Retail
Add Aluminum/Alloy Wheels (SE)				Ded W/out Air Conditioning			
Add Certified Pre-Owned				Ded W/out Automatic Trans.			
Add Navigation System (Std.Ltd)				Ded W/out Cruise Control			
Add Power Seat (Std.Limited,GT)				Ded W/out Power Door Locks			
Add Power Sunroof (Std.Limited)							

2015 DART-4 Cyl.	Mileage Class: I
9725 10825 11700 Sedan 4D SE	DFA 16495 3186 10550 14175
10850 12075 12975 Sedan 4D Aero	DFD 19995 3186 11700 15500
11500 12625 13525 Sedan 4D SXT	DFB 18595 3186 12175 16100
12075 13225 14150 Sedan 4D Rallye	DFB 18990 3186 12750 16750
13625 14800 15750 Sedan 4D Limited	DFC 22995 3242 14175 18400
13400 14575 15525 Sedan 4D GT	DFE 20995 3186 13975 18175

Add Alpine Stereo System	Trade-in	Loan	Retail	Add Power Sunroof (Std.Limited)	Trade-in	Loan	Retail
Add Aluminum/Alloy Wheels (Std.SXT, Rallye, Limited, GT)	300	350		Ded 2.0L Engine (Ex. SE)	575	650	
Add Certified Pre-Owned		350	400	Ded W/out Air Conditioning	250	250	
Add Navigation System (Std.Ltd)		850		Ded W/out Automatic Trans.	750	750	
Add Power Seat (Std.Limited,GT)	575	650		Ded W/out Cruise Control	675	675	
	275	325		Ded W/out Power Door Locks	200	200	

2015 CHARGER-V8	Mileage Class: III
17925 19550 20900 Sedan 4D Police (V6)	DXA 31070 4039
20825 22500 23875 Sedan 4D SE (V6)	DXB 27995 3934 18825 23475
20425 22100 23475 Sedan 4D SE (AWD, V6)	DXF 30995 4157 21500 26575
	DXH 29995 3966 21150 26150
	DXJ 32995 4188
	DXA 33300 4271
23625 25350 26775 Sedan 4D Police (AWD)	DXK 35800 N/A
	DXC 32995 4264 24100 29575
	DXC 35995 4264
	DXG 39995 4400
	DXE 47385 4410
	DXL 62295 4575

Add Rallye Pkg. (SXT)	Trade-in	Loan	Retail	Add Harman Kardon Stereo (SRT)	Trade-in	Loan	Retail
Add Technology Pkg.	1600	1800					
Add Alum/Alloy Wheels (Police)	1500	1675		Add Leather Seats	900	1000	
Add Beats Audio (Std. Rallye)	450	500		(Std. Road & Track, SRT)	675	750	
Add Certified Pre-Owned	425	475		Add Navigation System	725	825	
	1275			Add Power Sunroof	675	750	

2015 CHALLENGER-V8-8 Spd./AT	Mileage Class: III
18850 20500 21850 Coupe 2D SXT (V6)	DZA 26995 3834 19675 23775
21450 23150 24550 Coupe 2D SXT Plus (V6)	DZB 29995 3834 22100 26575
23800 25550 26975 Coupe 2D R/T	DZA 31495 4082 24300 29075
25775 27550 29000 Coupe 2D R/T Plus	DZB 34495 4082 26100 31175
32675 34525 36050 Coupe 2D R/T Scat Pack	DZF 38495 N/A 32450 38400
	DZD 46395 4240
	DZC 59995 4449

Rough Trade-in	Average Trade-in	Clean Trade-in	Body Type	Model Number	MSRP	Weight	Clean Loan	Clean Retail
Add Technology Pkg.				Add Leather (Std. R/T Plus,SRT)				
Add Alpine Stereo System (Std. Plus, Scat Pack)				Add Navigation System				
Add Certified Pre-Owned				Add Power Sunroof				
Add Shaker Hood Scoop				Add Mileage Class: I				
2015 DART-4 Cyl.				DFA	16495	3186	9900	13400
9050 10125 10975	Sedan 4D SE			DFD	19995	3186	10875	14575
10100 11200 12075	Sedan 4D Aero			DFB	18595	3186	11325	15100
10575 11675 12575	Sedan 4D SXT			DFB	18990	3186	11425	15200
10650 11775 12675	Sedan 4D Rallye			DFC	22995	3242	13300	17375
12700 13850 14775	Sedan 4D Limited			DFE	20995	3186	13150	17200
12525 13675 14600	Sedan 4D GT							
			<u>Trade-in/Loan</u>	<u>Retail</u>			<u>Trade-in/Loan</u>	<u>Retail</u>
Add Alpine Stereo System			300	350	Add Power Sunroof (Std.Limited)		575	650
Add Aluminum/Alloy Wheels (Std.SXT, Rallye, Limited, GT)			350	400	Add 2.0L Engine (Ex. SE)		250	250
					Add W/out Air Conditioning		750	750
Add Certified Pre-Owned			800		Add W/out Automatic Trans.		675	675
Add Navigation System (Std.Ltd)			575	650	Add W/out Cruise Control		200	200
Add Power Seat (Std.Limited,GT)			275	325	Add W/out Power Door Locks		175	175
2015 CHARGER-V8							Mileage Class: III	
14700 16250 17525	Sedan 4D Police (V6)			DXA	31070	4039	15775	19950
16150 17725 19025	Sedan 4D SE (V6)			DXB	27995	3934	17125	21525
19200 20850 22200	Sedan 4D SE (AWD, V6)			DXF	30995	4157	20000	24850
16625 18225 19550	Sedan 4D SXT (V6)			DXH	29995	3966	17600	22075
22950 24675 26100	Sedan 4D SXT (AWD, V6)			DXJ	32995	4188	23500	28875
20025 21700 23075	Sedan 4D Police			DXA	33300	4271	20775	25750
21200 22900 24300	Sedan 4D Police (AWD)			DXK	35800	N/A	21875	27025
22225 23925 25325	Sedan 4D R/T			DXC	32995	4264	22800	28075
25025 26775 28225	Sedan 4D R/T Road & Track			DXC	35995	4264	25425	31075
32725 34575 36100	Sedan 4D R/T Scat Pack			DXG	39995	4400	32500	39150
40025 41950 43525	Sedan 4D SRT 392			DXE	47385	4410	39175	46750
57925 60000 61700	Sedan 4D SRT Hellcat			DXL	62295	4575	55550	66225
			<u>Trade-in/Loan</u>	<u>Retail</u>			<u>Trade-in/Loan</u>	<u>Retail</u>
Add Rallye Pkg. (SXT)			1600	1800	Add Harman Kardon Stereo (SRT)		900	1000
Add Technology Pkg.			1500	1675	Add Leather Seats (Std. Road & Track, SRT)		675	750
Add Alum/Alloy Wheels (Police)			450	500				
Add Beats Audio (Std. Rallye)			425	475	Add Navigation System		725	825
Add Certified Pre-Owned			1450		Add Power Sunroof		675	750
2015 CHALLENGER-V8-6 Spd./AT							Mileage Class: III	
17575 19200 20525	Coupe 2D SXT (V6)			DZA	26995	3834	18475	22200
20725 22400 23775	Coupe 2D SXT Plus (V6)			DZB	29995	3834	21400	25575
22375 24100 25500	Coupe 2D R/T			DZA	31495	4082	22950	27350
25450 27200 28650	Coupe 2D R/T Plus			DZB	34495	4082	25800	30600
30950 32800 34300	Coupe 2D R/T Scat Pack			DZF	38495	N/A	30875	36625
36000 37900 39450	Coupe 2D SRT 392			DZD	46395	4240	35525	43575
54625 56650 58325	Coupe 2D SRT Hellcat			DZC	59995	4449	52500	62800
			<u>Trade-in/Loan</u>	<u>Retail</u>			<u>Trade-in/Loan</u>	<u>Retail</u>
Add Super Track Pkg. (Ex. SRT)			500	575	Add Leather (Std. Plus, SRT)		675	750
Add Technology Pkg.			250	300	Add Navigation System		725	825
Add Alpine Stereo (Std. Plus)			425	475	Add Power Sunroof		675	750
Add Certified Pre-Owned			1575		Add Shaker Hood Scoop		3250	3625
Add Harman Kardon (Std. SRT)			950	1075				
2014 DART-4 Cyl.							Mileage Class: I	
7550 8575 9400	Sedan 4D SE			DFA	15995	3186	8475	11725
8375 9425 10275	Sedan 4D Aero			DFD	19995	3191	9250	12650
9225 10300 11175	Sedan 4D SXT			DFB	18495	3297	10075	13600
9575 10650 11525	Sedan 4D Rallye			DFB	18990	3297	10375	13975
11150 12275 13175	Sedan 4D Limited			DFC	22995	3348	11875	15725
11075 12200 13100	Sedan 4D GT			DFE	20995	3297	11800	15650
			<u>Trade-in/Loan</u>	<u>Retail</u>			<u>Trade-in/Loan</u>	<u>Retail</u>

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ANDOIN RODQUEZS ROUSE, :
Debtor; :
and MARY IDA TOWNSON, Trustee, :
Respondents. :

CERTIFICATE OF SERVICE

The undersigned, Philip L. Rubin, hereby certifies that I am, and at all times hereinafter mentioned, was more than 18 years of age, and that I served a copy of the OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN on the following by depositing same in the United States Mail in properly addressed envelopes with adequate postage to:

Andoin Rodquezs Rouse
1049 Deckner Avenue
Atlanta, GA 30310

Carson R. Walden
Suite 757
315 W. Ponce de Leon Avenue
Decatur, GA 30033

Mary Ida Townsend
Chapter 13 Trustee
191 Peachtree Street NE
Suite 2200
Atlanta, GA 30303

This May 10, 2016.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

By: /s/Philip L. Rubin
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